

THE HONORABLE RICHARD A. JONES

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROMAN SELEZNEV,

Defendant.

Case No. CR11-70RAJ

ORDER CONTINUING TRIAL DATE  
AND SETTING FIFTH AMENDED  
COMPLEX CASE SCHEDULE

The Court, having reviewed the record and files in this case and after a consideration of all relevant information and the circumstances of this case, finds that the ends of justice will best be served by continuing the trial date to August 15, 2016, and orders the parties to comply with the complex case schedule set forth below. The ends of justice outweigh the best interests of the public and the defendant in having the matter brought to trial sooner.

The Court makes the following findings:

1. Defendant Roman Seleznev is charged in a Second Superseding Indictment with violations of federal criminal law, including wire fraud in violation of 18 U.S.C. § 1343; crimes in connection with computers in violation of 18 U.S.C. § 1030; access device fraud in violation of 18 U.S.C. § 1029; and aggravated identity theft in violation of 18 U.S.C. § 1028A. The charges in the Second Superseding Indictment involve allegations of a complex international computer fraud scheme, the object of which was to steal credit card numbers which would then be illegally resold over the internet and used to engage in fraudulent transactions. The Second Superseding Indictment alleges that the defendant, using computer

1 infrastructure located in numerous countries around the world, placed malware in the computer  
2 systems of hundreds of point of sale businesses, harvested consumer credit card information  
3 from those businesses without their knowledge and sold millions of consumer credit card  
4 numbers over the internet generating millions of dollars in illicit profits.

5         2.         At a hearing on February 11, 2016, the Court granted counsel Angelo Calfo and  
6 Andrea Ostrovsky's motion to withdraw. Dkt. #275. On February 12, 2016, the Court entered  
7 an order for substitution of counsel allowing John Henry Browne and Emma C. Scanlan to  
8 represent the defendant. Dkt. #276.

9         3.         Defense counsel has indicated that the discovery in this case is voluminous and  
10 complex; involves the analysis of multiple complex computer systems; and involves  
11 investigations by the government in multiple jurisdictions. Defense counsel requires additional  
12 time to gain access to the discovery in related cases and adequately review the discovery in this  
13 case in preparation for trial.

14         4.         Defense counsel has shown that there is good cause to continue the trial date in  
15 this case to allow for further defense investigation of government expert Ovie Carroll's opinion  
16 regarding a laptop computer purportedly seized from the defendant at the time of his  
17 apprehension.

18         5.         Based on the foregoing, the Court finds that the ends of justice will best be  
19 served by a continuance of the trial date and outweigh the best interests of the public and the  
20 defendant in a speedy trial, within the meaning of 18 U.S.C. § 3161(h)(7)(A).

21         6.         The Court further finds that the failure to grant such a continuance in this case  
22 would likely result in a miscarriage of justice because the defendant would be denied the  
23 reasonable time necessary for effective preparation, taking into account the exercise of due  
24 diligence. 18 U.S.C. § 3161(h)(7)(B)(i) and (iv).

1           7.       The Court finds, pursuant to 18 U.S.C. § 3161(h)(7)(B)(ii), that the case is so  
2 unusual and complex, due to the nature of the prosecution, the existence of novel questions of  
3 fact or law, and the volume of discovery that it would be unreasonable to expect adequate  
4 preparation for trial within the time limits established by 18 U.S.C. § 3161.

5           8.       The Court finds, pursuant to 18 U.S.C. § 3161(h)(7)(A) and (h)(7)(B)(iv), that  
6 the period of delay is reasonable.

7           9.       Any and all period of delay resulting from this continuance, from the date of  
8 this order, until the date of the rescheduled trial, shall be excludable time pursuant to Title 18,  
9 United States Code, Section 3161(h)(7)(A), for purposes of computation of the time limitations  
10 imposed by the Speedy Trial Act, Title 18, United States Code, Section 3161 through 3164.

11          10.      In an order dated April 5, 2016, the court granted leave to the defendant to file a  
12 late motion to suppress evidence. Dkt. #316.

13          11.      The defendant has advised that prior to filing his motion to suppress he must  
14 conduct additional expert testing of the original laptop computer and solid state drive.  
15 Defendant's request for leave of the court for the purpose of the additional proposed testing is  
16 DENIED. It is undisputed that the government provided the defendant with a forensic image  
17 of the original solid state hard drive from defendant's computer in October 2014. Since that  
18 time the defendant has had the opportunity to conduct any testing he believed necessary or  
19 appropriate.

20          12.      The Court is not persuaded by defense arguments to justify granting additional  
21 testing. The defendant will have the same ability as the government to investigate the activity  
22 on the computer at issue between the dates of July 5, 2015 and August 1, 2014. The defense  
23 currently has and has had the ability to investigate the file activity on the computer by  
24 reviewing the same logs and forensic artifacts that may have been available to the government.  
25 Nothing further is required.

It is therefore ORDERED Defendant's Motion to Continue the Trial Date (Dkt. #305) is GRANTED. The trial in this matter is hereby continued from May 9, 2016, to August 15, 2016, and that the parties shall observe the following case schedule for the remaining events in this matter:

Event	Date Ordered
Defendant to file Motion to Suppress; Government's Response Due May 16, 2016; Defendant's Reply Due May 23, 2016	May 9, 2016
Evidentiary Hearing on Defendant's Motion to Suppress	June 6, 2016, 9:00 a.m.
Government to produce all summary exhibits and underlying data under Fed. R. Evid. 1006; Government to provide rebuttal expert disclosures	June 17, 2016
Government to produce its final witness list and exhibit list related to its case-in-chief and final disclosure of Rule 404(b) evidence	July 1, 2016
Defendant to produce his final witness list and exhibit list related to his case-in-chief	July 15, 2016
Defendant to produce all summary exhibits and underlying data under Fed. R. Evid. 1006; Defense to provide rebuttal expert disclosures	July 15, 2016
Parties to file motions <i>in limine</i> and motions re: 404(b) and inextricably intertwined evidence. Response briefs due July 29, 2016; Reply briefs due August 3, 2016	July 18, 2016
Trial Briefs, Proposed Jury Instructions, Proposed Voir Dire, and Proposed Verdict Forms	July 25, 2016
Pretrial conference; Hearing on motions <i>in limine</i> (if necessary)	August 5, 2016, 9:00 a.m.
Trial	August 15, 2016, 9:00 a.m.

DATED this 29th day of April, 2016.



The Honorable Richard A. Jones  
United States District Judge